



Consumer Grievance Redressal Forum, Kalyan Zone
Behind "Tejashree", Jahangir Meherwanji Road, Kalyan (West) 421301
Ph- 2210707, Fax – 2210707, E-mail : cgrfkalyan@mahadiscom.in

NO. K/E/1551/1827 of 2018-19

Date of registration : 08/03/2019

Date of order : 02/05/2019

Total days : 55

IN THE MATTER OF GRIEVANCE NO. K/E/1551/1827 OF 2018-19 OF M/S BASSEIN TILES & CLAY WORKS PVT. LTD., 110, AMBIKA COMPLEX, NAVGHAR, VASAI (E), PIN CODE- 401 210 REGISTERED WITH CONSUMER GRIEVANCE REDRESSAL FORUM KALYAN ZONE, KALYAN ABOUT BILLING DISPUTE.

M/s Bassein Tiles & Clay Works Pvt. Ltd.,

110, Ambika Complex, Navghar,

Vasai (E), Pin Code- 401 210

(Consumer No. 001840263211) . . . (Hereinafter referred as Consumer)

V/s.

Maharashtra State Electricity Distribution

Company Limited

Through it's Nodal Officer/Addl.EE.

Vasai Circle, Vasai . . . (Hereinafter referred as Licensee)

Appearance : For Licensee - Shri.V.M.Gokhale, AA, Vasai (E) S/dn.

For Consumer - Shri. Harshad Sheth (C.R.)

[Coram- Shri A.M.Garde-Chairperson, Shri A.P. Deshmukh-Member Secretary
Mrs. S.A.Jamdar- Member (CPO)].

1) Maharashtra Electricity Regulatory Commission, is, constituted u/s. 82 of Electricity Act 2003 (36/2003). Hereinafter for the sake of brevity referred as 'MERC'. This Consumer Grievance Redressed Forum has been established as per the notification issued by MERC i.e. "Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2006" to redress the grievances of consumers vide powers conferred on it by Section 181 read with sub-section 5 to 7 of section 42 of the Electricity Act, (36/2003). Hereinafter it is referred as 'Regulation'. Further the regulation has been made by MERC i.e. Maharashtra Electricity Regulatory Commission. [Electricity Supply Code and other conditions of supply Regulations 2005]. Hereinafter referred as 'Supply Code' for the sake of brevity. Even, regulation has been made by MERC i.e. 'Maharashtra Electricity Regulatory Commission (Standards of Performance of Distribution Licensees, Period for Giving Supply & Determination of Compensation) Regulations, 2014.' Hereinafter referred 'SOP' for the sake of convenience.

- 2) Consumer herein is M/s Bassein Tiles & Clay Works Pvt. Ltd., having consumer no. 001840263211. Grievance is that consumer's power supply is for common facilities in Industrial Estate. However consumer has wrongly been categorized and billed under commercial Tariff though as per MSEDCL commercial consumer no. 175 dt. 05/09/2012 para 10 (c) read with MSEDCL comm. circular no.243 dt. 03/07/2015 para no.13 page no.3 Industrial tariff has to be applied.
- 3) Consumer gave a letter dt.27/08/2018 to MSEDCL to change the category. As no relief was granted consumer moved IGRC where the prayer for change of category from commercial to Industrial was granted but retrospective tariff difference for two years as claimed by the consumer was denied. Hence the grievance filed.
- 4) Distribution Licensee in reply states that the consumer M/s Bassein Tiles & Clay Works Pvt. Ltd. was sanctioned with power supply for Industrial purpose vide consumer no. 001840263211.
- 5) Distribution Licensee further contends that consumer had filed grievance no.1526 of 2017-2018 for quashing of assessment bill for Rs.5,65,150/- under section 126 of E.A. 2003. In the said case consumer had submitted change of tariff application in the year 2008. CGRF on that basis quashed the assessment under section 126 IE Act and allowed plain recovery of tariff difference for 2 years. Consumer also expressed his willingness to pay the tariff differences for 2 years. Forum recorded the admission of the consumer and quashed the assessment under section 126. In view thereof the tariff difference for the period cannot be refunded to consumer.
- 6) We have heard both sides. There appears no dispute that for the impugned period the tariff applicable is Industrial. The only objection of the Distribution Licensee appears to be that in grievance no.1526 of 2017-18 CGRF ordered quashing of the assessment made under section 126 of the IE Act on the ground that consumer had in the year 2008 itself given application for change of tariff from Industrial to commercial thereby consumer admitted to commercial tariff. The ground sought to be made out is totally fallacious for reason, in the first place that grievance no.1526 was on a different issue challenging the action taken by Distribution Licensee. Under section 126 IE Act and claiming tariff difference right from the year 2014. It is revealed that for common areas and amenities there was no clarity in tariff applicability. Circulars started coming in that regards since 2012, then in 2015 etc. On inspection section 126 was applied. The issue involved was whether consumer changed user from Industrial to commercial without intimation to Distribution Licensee so as to attract section 126 IE Act which the CGRF answered in favour of the consumer and quashed the assessment made from the year 2014. This does not mean that consumer admitted to commercial tariff for the period for which MERC itself categorized the activity as commercial. It is for the Distribution Licensee to apply appropriate tariff. Even the commands of the CGRF order in grievance no.1526 say in para 2 that the addition made in the

impugned bill is quashed except to the extent of previous two years plain recovery as permissible under law. The order does not empower Distribution Licensee to apply commercial tariff even in the period for which MERC categorized the consumer's activity in questions as Industrial. The stand taken by Distribution Licensee is fallacious. Also the Grievance no.1526 of 2017-2018 was on a different issue. The law is for the welfare of the consumer and cannot be applied to deny the genuine claim of the consumer.

7) Above being the state of things consumer is entitled to refund of tariff difference as claimed. No interest is granted as this ground was not taken earliest available opportunity.

8) There is a little delay in deciding grievance which was accessioned due to last moment query arises and also due to year end rush of cases.

Hence the Order

ORDER

- 1) The Grievance application of consumer is allowed.
- 2) Distribution Licensee to refund tariff difference for two years as claimed by the consumer for two years from date of application made to Distribution Licensee i.e.27/08/2018.
- 3) Compliance be made within 45 days and report be made within 60 days from the date of receipt of this order.

Date: 02/05/2019

(Mrs.S.A.Jamdar)
Member
CGRF, Kalyan

(A.P.Deshmukh)
MemberSecretary
CGRF, Kalyan.

(A.M.Garde)
Chairperson
CGRF, Kalyan

NOTE

- a) The consumer if not satisfied, may file representation against this order before the Hon. Ombudsman within 60 days from the date of this order at the following address.

“Office of the Electricity Ombudsman, Maharashtra Electricity Regulatory Commission,606/608, Keshav Bldg, Bandra Kurla Complex,Mumbai 51”.

- b) Consumer, as per section 142 of the Electricity Act, 2003, can approach Hon. Maharashtra Electricity Regulatory Commission for non-compliance, part compliance or

- c) delay in compliance of this decision issued under “Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Ombudsman) Regulation 2003” at the following address:-

“Maharashtra Electricity Regulatory Commission, 13th floor, World Trade Center, Cuffe Parade, Colaba, Mumbai 05”

- d) It is hereby informed that if you have filed any original documents or important papers you have to take it back after 90 days. Those will not be available after three years as per MERC Regulations and those will be destroyed.